



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

ONE ASHBURTON PLACE ROOM 411

BOSTON MASSACHUSETTS 02108

(617) 727-8352

(800) 462-OCPP

MICHAEL J. SULLIVAN
DIRECTOR

March 4, 1996
AO-96-10

Thomas R. Kiley
Cosgrove, Eisenberg and Kiley, P.C.
One International Place - Suite 1820
Boston, MA 02110-2600

Re: Application of "bundling" to federal candidates

Dear Mr. Kiley:

This letter is in response to your February 8, 1996 letter requesting an advisory opinion regarding the "anti-bundling" provisions of chapter 43 of the Acts of 1994.

Question: Do the anti-bundling provisions of the Massachusetts campaign finance law apply to federal campaign finance activity?

Answer: No.

Facts: You state that you represent the Norfolk County District Attorney and the political committee organized on his behalf. You are also the treasurer of the Delahunt for Congress Committee at the federal level. Mr. Delahunt and his federal committee plan on conducting a series of house parties to raise funds for his Congressional campaign. Conceivably, the hosts of these house parties may be associated with corporations or may be legislative or executive agents. Invitations to their friends and business acquaintances could result in contributions which would be transmitted to you as the federal Committee's treasurer accompanied by writings identifying the hosts.

You have asked us to assume that, but for the fact that the campaign is for federal rather than state office, the method of soliciting and receiving contributions would amount to "bundling" under section 10A of the chapter 55, the campaign finance law. Based upon that assumption, you ask if section 10A or any other state campaign finance law would be implicated.

Discussion: M.G.L. c. 55, section 10A as added by chapter 43 of the Acts of 1994 places certain limitations and restrictions on "contributions made to a candidate, such candidate's agent, such candidate's committee or such candidate's committee's agent" from, among others, legislative

and executive agents and persons "charged with the responsibility of delivering . . . [pooled corporate] contributions . . ."

The word "candidate" is defined, in part, as "any individual who seeks nomination or election to public office, whether or not such individual is nominated or elected." M.G.L. c. 55, s. 1. It has been this office's long standing opinion that the definition of "candidate" and the provisions of the campaign finance law governing a candidate's campaign finance activity do not apply to federal office. While the term "public office" is ambiguous and could, therefore, include federal as well as non-federal candidates, such an interpretation would not be consistent with the principle purpose of the office which is the regulation of campaign finance activity in Massachusetts elections. See Anderson v. City of Boston, 376 Mass. 178 (1978). In addition, such an interpretation would be subject to preemption by the Federal Election Campaign Act. See 2 USC s. 453 (which provides that the provisions of the Federal Election Campaign Act "supersede and preempt any provision of State law with respect to Federal office") and 11 CFR 108.7(b) and (c).¹

In conclusion, the limitations and restrictions of section 10A applicable to certain contributions to "candidates" do not apply to contributions made to persons seeking federal office or to contributions to that person's federal political committee.

This opinion has been rendered solely on the basis of representations made in your letter and solely in the context of M.G.L. c.55.

Please do not hesitate to contact this office should you have additional questions about this or any other campaign finance matter.

Sincerely,



Michael J. Sullivan
Director

MJS/cp

¹ Federal law, however, does not supersede or preempt M.G.L. c. 55, ss. 13-17 which govern the political activities of state and local employees rather than the source of campaign funds for federal office or any other matter within the scope of the Federal Election Campaign Act. See AO-95-030 and FEC Advisory Opinion 1989-27.